

Public Chapter 338

HOUSE BILL NO. 599

By Representatives McDonald, Hargrove, Rinks, Westmoreland, Eckles, Ralph Cole, Huskey, Rhinehart, Mumpower, Godsey, Bird, Ronnie Cole and Mr. Speaker Naifeh

Substituted for: Senate Bill No. 376

By Senators Atchley, Crutchfield

AN ACT to amend Tennessee Code Annotated, Section 8-8-102, relative to qualifications for the office of sheriff.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-8-102, is amended by adding the following at the end of subsection (a):

The requirements of subsection (a) shall apply to any person who holds the office of sheriff on the effective date of this act. However, in order to qualify for any subsequent election or appointment to the office of sheriff, such person shall meet the requirements of subsection (b).

SECTION 2. Tennessee Code Annotated, Section 8-8-102, is amended by deleting Subsection (b) in its entirety and by substituting instead the following:

(b) After the effective date of this act, to qualify for election or appointment to the office of sheriff a person shall:

- (1) Be a citizen of the United States;
- (2) Be at least twenty-five (25) years of age prior to the date of qualifying for election;
- (3) Be a qualified voter of the county;
- (4) Have obtained a high school diploma or its equivalent in educational training as recognized by the Tennessee State Board of Education;
- (5) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances; so long as said violation involves an offense that consists of moral turpitude a misdemeanor crime of domestic violence;
- (6) Be fingerprinted and have the Tennessee Bureau of Investigation make a search of local, state and federal fingerprint files for any criminal record. Fingerprints are to be taken under the direction of

the Tennessee Bureau of Investigation. It shall be the responsibility of the T.B.I. to forward all criminal history results to the POST Commission for evaluation of qualifications;

(7) Not have been released, separated or discharged from the Armed Forces of the United States with a Dishonorable or Bad Conduct discharge, or as a consequence of conviction at court martial for either state or federal offenses.

(8) Have been certified by a qualified professional in the psychiatric or psychological fields to be free of all apparent mental disorder as described in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM III) or its successor, of the American Psychiatric Association; and

(9) Possess a current and valid peace officer certification as issued by the Tennessee Peace Officer Standards and Training Commission as provided in Section 38-8-107, as defined in Chapter 8 of Title 38, within twelve (12) months prior to the close of qualification for the election for the office of sheriff.

In the event that certification for peace officer is inactive or no longer valid, proof of the intent to run for the office of sheriff shall be presented to the POST Commission for approval to take the POST certification examination, provided all requirements are met as set forth in subdivisions (1) through (8) of this subsection and those set by the Commission.

The provisions of this subdivision shall not apply in any county having a metropolitan form of government where the sheriff does not have law enforcement powers.

(c) Any person seeking the office of sheriff shall file with the Peace Officer Standards and Training Commission, either prior to the qualification deadline for such office, or after filing the qualifying petition for such office, an affidavit sworn to and signed by the candidate affirming that the candidate meets the requirements of this section. If such affidavit is not filed with the POST Commission by the withdrawal deadline for the office of sheriff, such candidate's name shall not be placed on the ballot. The Peace Officer Standards and Training Commission shall verify POST certification on any person seeking the office of sheriff who meets these provisions. The original notarized verification form from POST, along with such person's nominating petition shall be filed with the County Election Commission. In the event that a person seeks election to the office of sheriff by the County Legislative Body to fill a vacancy in office, such verification must be filed with the county clerk prior to the election.

(d) Every person who is elected or appointed to the office of sheriff after the effective date of this act shall, annually during such term of office, complete a forty (40) hour in-service training course appropriate for the rank and responsibilities of a sheriff. The training course shall be taught at the Tennessee Law Enforcement Training Academy. The curriculum shall be developed by the Tennessee Sheriff's Association and approved by the Tennessee Peace Officer Standards and Training Commission. Any such sheriff who does not fulfill the obligations of this training course shall lose his or her powers of arrest.

(e)(1) Notwithstanding any provision of this act to the contrary, a current and valid peace officer certification issued by the Tennessee Peace Officer Standards and training commission or training that is approved by or meets the standard on minimum hours required to be certified by the POST Commission is not a requirement for a person to initially qualify for election to the office of sheriff. However, if such a person qualifies to run for the office of sheriff and is elected to the office, such person shall be required to enroll in the first recruit training program offered by the Tennessee Law Enforcement Training Academy available to such person after taking office. Any cost associated with obtaining such POST certification shall be paid by the county. For such person to qualify for the office of sheriff in any subsequent election, the person must have completed such recruit training program and have obtained POST certification during such person's first term of office as sheriff.

(2) If, pursuant to subdivision (1), a person is elected to the office of sheriff, and the person does not possess a current and valid peace officer certification, upon taking office the salary of such person shall be fifteen percent (15%) less than the salary of a person initially elected to the office of sheriff who does possess a current and valid certification; provided, however, if during the first year in office, such person completes the recruit training program and obtains certification, the salary of such person shall, as a matter of law, automatically be raised the month following the date certification is obtained to the level of other persons initially elected to the office of sheriff who are certified. However, if such a person qualifies to run for the office of sheriff and is elected to the office, such person shall be required to enroll, within six (6) months after taking office, in the recruit training program offered by the Tennessee Law Enforcement Training Academy.

(A) During the second year in office, the salary shall be twenty percent (20%) less than the salary of a first-term sheriff who is certified;

(B) During the third year in office, the salary shall be twenty-five percent (25%) less than the salary of a first-term sheriff who is certified; and

(C) During the fourth year in office, the salary shall be thirty percent (30%) less than the salary of a first-term sheriff who is certified.

Notwithstanding such salary schedule, the salary shall, as a matter of law, be automatically raised the month following the date certification is obtained to the level of a first-term sheriff who is certified.

(3) As used in this subsection the term "certification" or "certified" means a current and valid peace officer certification issued by the Tennessee Peace Officer Standards and Training Commission or training that is approved by or meets the standard on minimum hours required to be certified by the Tennessee Peace Officer Standards and Training Commission.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. The provisions of this act shall take effect upon becoming a law, the public welfare requiring it.

